

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re cases filed by
CYBER EBOT WATTSON,
Plaintiff,

No. C 14-0803 CW
ORDER TO SHOW
CAUSE WHY COURT
SHOULD NOT ISSUE
PRE-FILING ORDER

Between February 21, 2014 and May 5, 2014, Cyber Ebot Wattson filed twenty-four cases in this District. See attached Addendum (listing the twenty-four cases filed by Mr. Wattson since February 21, 2014). All of the cases were assigned to this judge for appropriate action. In each of these cases, Mr. Wattson seeks to proceed in forma pauperis.

In light of this litigation history, the Court considers sua sponte whether it is necessary and appropriate to impose a pre-filing order on Mr. Wattson.

LEGAL STANDARDS

Federal courts have the inherent power "to regulate the activities of abusive litigants by imposing carefully tailored restrictions under the appropriate circumstances." DeLong v. Hennessey, 912 F.2d 1144, 1147 (9th Cir. 1990). One such carefully tailored restriction is an order requiring a litigant to seek permission from the court prior to filing any future suits. Id. at 1146-47. As noted by the Ninth Circuit, district courts

1 "bear an affirmative obligation to ensure that judicial resources
2 are not needlessly squandered on repeated attempts by litigants to
3 misuse the courts." O'Loughlin v. Doe, 920 F. 614, 618 (9th Cir.
4 1990). Nonetheless, pre-filing review orders should rarely be
5 used. Moy v. United States, 906 F.2d 467, 470 (9th Cir. 1990). A
6 pre-filing order "cannot issue merely upon a showing of
7 litigiousness." Id. The plaintiff's claims must not only be
8 numerous, but also be patently without merit. Id.

10 The Ninth Circuit has established four guidelines "to
11 maintain this delicate balance between broad court access and
12 prevention of court abuse." O'Loughlin, 920 F.2d at 617. Before
13 a court enters a vexatious litigant order: (1) the plaintiff must
14 be given adequate notice to oppose entry of the order; (2) the
15 court must present an adequate record by listing the case filings
16 that support its order; 3) the court must make substantive
17 findings of frivolousness or harassment; and (4) the order must be
18 narrowly tailored to remedy only the plaintiff's particular
19 abuses. Id.; DeLong, 912 F.2d at 1147-49.

22 DISCUSSION

23 I. Notice

24 Before a pre-filing order may be entered, due process
25 requires that the litigant be provided with notice and an
26 opportunity to oppose the order. De Long, 912 F.2d at 1147.

1 Accordingly, the Court is issuing this Order to Show Cause prior
2 to entering any order.

3 II. Adequate record for review

4 The district court must create a record for review which
5 includes a listing of all the cases and motions that led it to
6 conclude that a pre-filing order was needed. The record must at
7 least show, in some manner, that the litigant's activities were
8 numerous or abusive. See id.

10 The Court has attached an Addendum to this order. The
11 Addendum consists a report from ECF, the Court's online docket
12 system that lists the twenty-four cases that have led the Court to
13 conclude that a pre-filing order may be necessary.

15 III. Substantive Findings of Frivolousness or Harassment

16 The district court must make substantive findings as to the
17 frivolous or harassing nature of the litigant's actions. It must
18 find the litigant's claims frivolous after looking at both the
19 number and content of the filings, or, alternatively, find that
20 the claims show a pattern of harassment. See id. at 1148.

22 Looking at the large number of filings and their content, the
23 Court determines that Mr. Wattson's claims are frivolous. As
24 noted above, Mr. Wattson has filed twenty-four cases in an eight-
25 week period. In each case Mr. Wattson filed an application to
26 proceed in forma pauperis. The Court granted the application in
27 each case, but dismissed all of the complaints for failure to
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1 state a claim. In addition, the Court found that Mr. Wattson's
2 complaints lack an arguable basis in law, and an arguable basis in
3 fact. See Jackson v. Arizona, 885 F.2d 639, 640-41 (9th Cir.
4 1999) (complaint is frivolous and subject to dismissal if it is
5 incomprehensible and lacks an arguable basis in law or fact).
6 Thus, the Court made a substantive finding as to the frivolous
7 nature of Mr. Wattson's actions.
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9 4. Breadth of Order

10 The district court must narrowly tailor the proposed pre-
11 filing order to "closely fit the specific vice encountered."
12 DeLong, 912 F.2d at 1148. An order preventing a litigant from
13 filing any further actions without leave of court, for example,
14 ordinarily is overly broad and cannot stand. See id.; Moy, 906
15 F.2d at 470-71.
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17 When the Ninth Circuit held in Moy that an order preventing a
18 vexatious litigant from filing any actions without leave of the
19 court was overly broad, the court specifically noted, "There is no
20 evidence on this record that Moy has a general history of
21 litigious filing." Moy, 906 F.2d at 471. Similarly, in DeLong,
22 where the Ninth Circuit held that a similar order was overly
23 broad, the litigant's history involved repeated filings related to
24 a specific dispute with particular defendants. DeLong, 912 F.2d
25 at 1145-46. On that record, the district court likewise could not
26 have concluded that DeLong had a general history of litigious
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1 filing. Here, by contrast, Mr. Wattson has filed twenty-four
2 cases containing often incomprehensible allegations related to his
3 assertion that he is not a human but a member of the "Cybernetic
4 Controller Cop Operatives."

5 The "specific vice" encountered by the Court is the volume of
6 incomprehensible complaints filed by Mr. Wattson, without
7 cognizable claims for relief. Although recurring themes, such as
8 Mr. Wattson's identity as a robot or a "cybernet citizen", sexual
9 slavery, abduction and torture, the misidentification of Mr.
10 Wattson as either Aaren or Darren Striplin and hijacked airplanes
11 dominate Mr. Wattson's filings, a pre-filing order cannot be
12 limited to specific subject matter, because the problem of
13 incomprehensibility is not tied to any particular subject matter.
14 On this record, the Court concludes that Mr. Wattson has a general
15 history of litigious filing. This history justifies a general
16 order requiring pre-filing review by this Court of any action
17 filed by Mr. Wattson.
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21 Unless Mr. Wattson shows cause why it should not be issued,
22 the Court intends to issue the following pre-filing order, which
23 will be applicable to any action Mr. Wattson files in this Court:

24 "IT IS HEREBY ORDERED that the Clerk of this Court shall not
25 accept for filing any further complaints filed by Cyber Ebot
26 Wattson, until that complaint has first been reviewed by the
27 Court. A two-stage pre-filing review will be conducted before
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leave is granted to file the action. First, if the complaint is related to any of the following subject matters:

- (1) Mr. Wattson's identity as a robot or a "cybernet citizen;"
- (2) sexual slavery;
- (3) abduction and torture;
- (4) the misidentification of Mr. Wattson as either Aaren or Darren Striplin; or
- (5) hijacked airplanes

it will not be filed unless it presents cognizable claims that are not based on merely conclusory allegations. Second, no other complaints filed by Mr. Wattson will be filed unless they contain intelligible factual allegations and claims for relief. All cases filed by Mr. Wattson shall be forwarded to the undersigned for pre-filing review."

Within thirty days of the date of this Order, Mr. Wattson may file a statement showing cause why this order should not be issued. If he fails to file the statement or if he fails to show cause why the order should not be filed, the order shall be entered and it shall be applicable in all future actions filed by Mr. Wattson.

IT IS SO ORDERED.

Dated: 5/22/2014


CLAUDIA WILKEN
United States District Judge